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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/911,847	07/24/2001	David Pierre Gendron	1027-002US01	3913
38356	7590	09/08/2006	EXAMINER	
BROOKS & CAMERON, PLLC 1221 NICOLLET MALL #500 MINNEAPOLIS, MN 55403			NASH, LASHANYA RENEE	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/911,847	Applicant(s) GENDRON ET AL.	
	Examiner LaShanya R. Nash	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-20 and 22-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-20, 22-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to an Amendment filed 19 July 2006. Claims 1-6,8-20, and 22-30 are presented for further consideration. Claims 1, 8,12,16, and 23 are currently presented. Claims 7 and 21 are canceled.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 18 May 2006 has been entered.

Response to Arguments

Applicant's arguments with respect to claim 1-6, 8-20, and 22-30 have been considered but are moot in view of the new grounds of rejection based on new interpretation of previously applied prior art Cooke, Jr. et al. (US Patent 6,574,629) as set forth below in the Office action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by
Cooke, Jr. et al. (US Patent 6,574,629), hereinafter referred to as Cooke.**

In reference to claim 1, Cooke discloses a method for receiving image data and then determining any inconsistencies with the image data for subsequent routing to remote locations on the network (abstract; column 2, line 57-column 3, line 2). Cooke discloses:

- A method (Figure 4; column 9, line 65-column 10, line 11) comprising:
- Receiving a network communication including an asset having image data and patient data (i.e. study transmitted to network gateway; column 16, lines 48-51; Figure 4-item 61);
- Storing the asset and validating the patient data in parallel (column 10, lines 30-38; column 16, lines 58-65; Figure 4-items 61-62), wherein validating the patient data includes issuing a reconciliation event (i.e. provide "fixup" GUI when study is broken) when the patient data is invalid or incomplete (Figure 12&15; column 23, lines 40-64);
- Requesting the invalid or incomplete patient data to reconcile the patient data during the reconciliation event (Figures 12&15; Figure 4-item 64) and to add reconciled patient data to the asset (column 16, lines 48-65; column 23, lines 40-64); and

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- Forwarding the asset with the added reconciled patient data upon reconciling the patient data (column 17, line 1-column 18, line 52; Figure 4-item 65).

In reference to claim 12, Cooke discloses a method for receiving image data and then determining any inconsistencies with the image data for subsequent routing to remote locations on the network (abstract; column 2, line 57-column 3, line 2). Cooke discloses:

- A method (Figure 4; column 9, line 65-column 10, line 11) comprising:
- Receiving a number of packets with multiple software modules listening to a single communication socket of a TCP/IP-based network (Figure 1-item 9), (column 6, line 65-column 7, line 15), wherein the packets contain a storage asset having image data and patient data (i.e. study transmitted to network gateway; column 16, lines 48-51; Figure 4-item 61);
- Selectively process the patient data and the image data with separate software modules to store the storage asset and validate the patient data in parallel as the packets are received (column 10, lines 30-38; column 16, lines 48-61; Figure 4-items 61-62);
- Issuing a reconciliation event (i.e. provide "fixup" GUI when study is broken) when the patient data is invalid or incomplete (Figure 12&15; column 23, lines 40-64);

- Requesting the invalid or incomplete patient data to reconcile the patient data during the reconciliation event (Figures 12&15; Figure 4-item 64) and to add reconciled patient data to the asset (column 16, lines 48-65; column 23, lines 40-64); and
- Forwarding the asset including the reconciled patient data to a network destination upon validating the patient data and prior to receiving all of the image data (column 17, line 1-column 18, line 52; Figure 4-item 65).

In reference to claim 16, Cooke discloses a network element for receiving image data and then determining any inconsistencies with the image data for subsequent routing to remote locations on the network (abstract; column 2, line 57-column 3, line 2). Cooke discloses:

- A router (i.e. network gateway; Figures 1&4-item 6; column 9, line 65-column 10, line 50) comprising:
- A computer-readable medium storing routing information mapping destinations to routes within a network (i.e. IP routing; column 15, lines 44-46; column 15, line 55-column 17, line 5; table 3);
- A storage manager software module (Figure 4-item 62) that receives a network communication including an asset having image data and patient data (i.e. study transmitted to network gateway; column 16, lines 48-51; Figure 4-item 61), and stores the asset to a storage device (column 10, lines 30-38; column 16, lines 58-65; Figure 4-item 62);

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- A validation software module (Figure 4-item 62) that validates the patient data in parallel with the storage of the asset, wherein the validation software issues a reconciliation event (i.e. provide “fixup” GUI when study is broken) when the patient data is invalid or incomplete (i.e. broken study; column 2, line 57-column 3, line 2; column 16, lines 48-60) to reconcile the invalid or incomplete data (Figure 12&15; column 23, lines 40-64);
- A verification module (Figure 4-item 61) to validate image data and patient data (i.e. study; Figures 12-13; column 1, lines 53-62; column 8, lines 39-47) of a network communication (column 2, line 57- column 3, line 2; column 16, lines 48-65);
- A patient manager (Figures 12&15; Figure 4-item 64) that reconciles invalid data (i.e. fix broken study) in at least one of the image and patient data (column 16, lines 48-65; column 23, lines 40-64); and
- A routing module (Figure 4-item 65) to forward the communication with the reconciliation data added to the network destination in accordance with the routing information upon the validation of the patient data (column 17, line 1-column 18, line 52).

In reference to claim 3, Cooke shows the method further comprising: receiving the network communication with multiple software modules; and storing the asset and validating the patient data with different software modules (column 15, lines 57-65; Figure 4).

In reference to claims 4, 13, and 18 Cooke shows the method wherein the patient data comprises medical data and the image data comprises medical images (Column 1, lines 53-62; column 8, lines 39-47; Figure 26-27).

In reference to claims 5, 14 and 19 Cooke shows the method wherein the medical data comprises patient information, session information and study information (column 1, lines 53-62; column 8, lines 34-47; Figure 12-13, 15-18).

In reference to claims 6, 15 and 20 Cooke shows the method wherein validating the patient data comprises syntactically and semantically validating a number of DICOM tags within the patient data (column 16, lines 50-65; column 10, line 54-column 11, line 25; Figure 15).

In reference to claim 8, Cooke shows the method wherein storing the pixel data comprises buffering the storage asset to a local storage medium (column 10, line 29-38).

In reference to claim 9, Cooke shows the method wherein forwarding the network communication upon validating the asset comprises initiating and outbound network communication prior to receiving all of the patient data (i.e. determining if study has been fixed; column 23, lines 51-61).

In reference to claim 10, Cooke shows the method wherein receiving the network communication comprises receiving a number of packets from a network, and where storing the image data and validating the patient data commences after receiving a first portion of the packets (i.e. checking each image portion of a study; column 15, lines 55-65; column 16, lines 48-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 22-23 and are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooke, Jr. et al. (US Patent 6,574,629) in view of Fendick et al. (US Patent 6,252,857), hereinafter referred to as Cooke and Fendick, respectively .

In reference to claim 23, Cooke discloses a method employed for receiving image data and subsequently determining any inconsistencies with the image data prior to routing to remote locations on the network (abstract; column 2, line 57-column 3, line 2). Cooke discloses:

- A method (Figure 4; column 9, line 65-column 10, line 11) comprising:

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- Storing routing information (table 3) mapping destinations to routes within a network (i.e. IP routing; column 15, lines 44-46; column 15, line 55-column 17, line 5);
- Receiving (Figure 4-item 60) a network communication comprising destination information (column 10, lines 12-38; column 15, line 65-column 16, line 5) and a storage asset having image data and patient and (i.e. study; Figures 12-13; column 1, lines 53-62; column 8, lines 39-47);
- Validating (Figure 4-item 62) the image data and patient data of the storage asset, wherein validating includes issuing a reconciliation event (i.e. provide “fixup” GUI when study is broken) when one of image data and the patient data is invalid or incomplete (i.e. broken study; column 2, line 57-column 3, line 2; column 16, lines 48-60), (Figure 12&15; column 23, lines 40-64);
- Requesting the invalid or incomplete patient data to reconcile the patient data during the reconciliation event (Figures 12&15; Figure 4-item 64) and to add reconciled patient data to the storage asset (column 16, lines 48-65; column 23, lines 40-64);
- Storing a plurality of outbound network communications in a plurality of queues, wherein the outbound network communications include references to the storage asset, (column 10, lines 47-51; column 30, lines 1-30; table 7);

- Selecting a plurality of routes from the routing information (column 15, lines 55-column 16, line 5);
- Forwarding (Figure 4-item 65) the network communication according to the routing information (column 17, line 1-column 18, line 52).

Although Cooke discloses substantial features to the claimed invention, the reference fails to explicitly disclose the forwarding the network communications to selected routes in parallel. Nonetheless, this modification to the routing method would have been obvious to one of ordinary skill in the art at the time of the invention, as further evidenced by Fendick.

In an analogous art, Fendick discloses a method for simultaneous transmission of information to multiple destinations or “multicasting”, (column 2, lines 50-56 and Figure 2). One of ordinary skill in the art would have been motivated to implement this modification into the routing method in order to support the concurrent transmission of medical data to a plurality of destinations (e.g. hospital areas, off-site facilities), thereby increasing system flexibility and ease of use, (Schnellinger column 5, lines 30-48).

In reference to claims 11 and 22, Cooke discloses forwarding the network communication to a plurality of storage systems (column 9, line 65-column 10, line 29). However, the reference fails to explicitly disclose the forwarding the network communications to selected routes in parallel. Nonetheless, this modification to the routing method would have been obvious to one of ordinary skill in the art at the time of the invention, as further evidenced by Fendick.

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In an analogous art, Fendick discloses a method for simultaneous transmission of information to multiple destinations or “multicasting”, (column 2, lines 50-56 and Figure 2). One of ordinary skill in the art would have been motivated to implement this modification into the routing method in order to support the concurrent transmission of medical data to a plurality of destinations (e.g. hospital areas, off-site facilities), thereby increasing system flexibility and ease of use, (Schnellinger column 5, lines 30-48).

In reference to claim 24 Cooke shows the method wherein selecting a plurality of routes (column 15, lines 55-65) comprises selecting routes to a plurality of archive systems (column 9, line 65-column 10, line 29).

In reference to claim 25, Cooke shows the method further comprising storing a set of routing rules (table 3; Figure 9); comparing at least a portion of the data to the set of routing rules; and selecting a plurality of routes from the routing information based on the destination information and a result of the comparison (column 17, line 13-column 18, line 52).

In reference to claim 26, Cooke shows the method wherein the network comprises a medical imaging network and the network communication complies with the DICOM protocol (column 5, line 55-column 6, line 25), and further wherein storing routing information comprises storing routing information mapping Application Entity Names

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(AENames) (i.e. routing name for modality) to routes within the medical imaging network (column 17, lines 34-60).

In reference to claim 27, Cooke shows the method wherein selecting a plurality of routes from the routing information comprises comparing an AENaMe defined within the network communication to the AENaMe defined within the routing information (column 15, line 55-column 16, line 48).

In reference to claim 28, Cooke shows the method wherein the network communication complies with the DICOM protocol, and further wherein comparing at least a portion of the medical asset data comprises: parsing the medical asset data to identify a set of DICOM tags and corresponding data (column 10, lines 29-column 11, line 3; column 16, line 55-column 16, line 65); and assessing a routing rule from the set of routing rules based on the DICOM tags and corresponding data (column 15, lines 55-column 16, line 48).

Claims 2 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooke as applied to claim 1 above, and further in view of Cawley (US Patent 5,361,334), hereinafter referred to as Cawley .

In reference to claims 2 and 17, Cooke shows the method comprises instantiating a validation software module (Figure 4-item 64) and a storage manager software module (Figure 4-item 62), (column 16, lines 48-61). However, the references

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do not show storing and receiving the asset in a ring buffer. Nonetheless, storing information in a ring buffer was well known in the art at the time of the invention, as further evidenced by Cawley. Therefore this would have been an obvious modification to the aforementioned medical image routing method to one of ordinary skill in the art at the time of the invention.

In an analogous art, Cawley discloses a method for routing network communication (i.e. packets) that employs ring buffers for receiving and storing the data, and subsequently forwarding this data to the intended destination (column 2, line 45 to column 3, line 14). One of ordinary skill in the art would have been motivated to incorporate a ring buffer in the aforementioned method, so as to prevent data collision and gridlock during transmission, thereby increasing network efficiency (Cawley; column 2, line 60-65 and column 3, lines 2-6).

Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooke and Fendick as applied to the claim 23 above, and further in view of Martin et al. (US Patent 6,532,455), hereinafter referred to as Martin

In reference to claim 29, Cooke and Fendick show the method wherein storing a set of rules conform to a user-defined grammar for routing the medical asset data, (Cooke; column 16, line 66-column 18, line 52; Figures 8-9). However the references fail to show XML-based set of rules. Nonetheless, this would have been an obvious modification to the aforementioned router method to one of ordinary skill in the art at the time of the invention, as further evidenced by Martin.

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Martin shows a method for content-based document routing that employs a rule engine defined in XML format, (column 1, lines 35-57 and column 2, lines 30-36). One of ordinary skill in the art would have been so motivated to implement this modification into the routing method so as to implement user-defined routing mechanisms, thereby increasing the system efficiency and ease of use (Martin column 2, lines 15-23).

In reference to claim 30, Cooke shows the router method to further comprise presenting an interface for receiving user input that defines the user-defined grammar, (column 16, line 66-column 18, line 52; Figures 8-9).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShanya R Nash whose telephone number is (571) 272-3957. The examiner can normally be reached on 9am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LaShanya Nash
Art Unit 2153
August 25, 2006



KRISNA LIM
PRIMARY EXAMINER